

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

BARBARA STEPHANIE LIZARDO,

Defendant.

Case No. 2:17-cr-00021-JCM-GWF

ORDER

Presently before the court is Defendant Barbara Lizardo's Motion for Order Directing the U.S. Marshal to Arrange Transportation to Initial Appearance, Arraignment and Plea Hearing Set for February 15, 2017 (ECF No. 25), filed on February 10, 2017. The government filed a response (ECF No. 33) on February 13, 2017. The court has read and considered the parties' arguments and for the reasons stated in the government's response, the court will deny the motion.

In addition to filing the motion, on February 13, 2017, Defendant’s attorney contacted Magistrate Judge Hoffman’s chambers via telephone to inquire whether Defendant may appear for her initial appearance, arraignment and plea hearing that is currently set for February 15, 2017, by video conference. Under Federal Rule of Criminal Procedure 10(c), video conference “may be used to arraign a defendant if the defendant consents.” The Advisory Committee Notes to the 2002 Amendments to Rule 10 recognize that “in some jurisdictions delays may occur in travel time from one location to another—in some cases requiring either the magistrate judge or the participants to travel long distances[,]” thereby recognizing the benefit of video conference in eliminating delays, reducing expenses, and permitting the arraignment to be conducted sooner. *Id.* The notes further

specify as follows:

Although the rule requires the defendant to waive a personal appearance for an arraignment, the rule does not require that the waiver for video teleconferencing be in writing. Nor does it require that the defendant waive that appearance in person, in open court. It would normally be sufficient for the defendant to waive an appearance while participating through a video teleconference.

Given the relatively short amount of time between the date Defendant was served with the summons and the hearing date, the distance between Las Vegas and Orlando, Florida, where Defendant resides, as well as the efficiency considerations described in the Advisory Committee Notes to Rule 10, the court will conduct Defendant's initial appearance, arraignment and plea hearing via video conference at a date to be determined. Thus, Defendant's appearance in Las Vegas on February 15, 2017, is waived. The court will contact the United States District Court for the Middle District of Florida, Orlando Division, to coordinate a mutually-available date for the video conference hearing.

Defendant's attorney, however, must appear in person on February 15, 2017, at 3:00 p.m. in Courtroom 3C, Lloyd D. George Courthouse, and should be prepared to:

- Confirm that Defendant was interviewed by United States Pretrial Services on February 14, 2017;
- Assist with coordinating Defendant's appearance at the video conference hearing in Orlando, Florida, on a date and time to be determined;
- Arrange for Defendant to be in contact with her attorney during the hearing, either in person in Orlando or by telephone.

Attorneys for Defendant and the government should be prepared to discuss dates they are available for the video conference hearing.

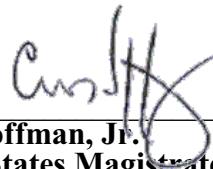
IT IS THEREFORE ORDERED that Defendant Barbara Lizardo's Motion for Order Directing the U.S. Marshal to Arrange Transportation to Initial Appearance, Arraignment and Plea Hearing Set for February 15, 2017 (ECF No. 25) is DENIED.

IT IS FURTHER ORDERED that Defendant Barbara Lizardo's appearance at the Initial Appearance, Arraignment and Plea Hearing currently set for February 15, 2017 is WAIVED, though her attorney must attend in person. The court will enter a separate order resetting

1 Defendant's initial appearance, arraignment and plea hearing once a date has been confirmed.

2 IT IS FURTHER ORDERED that the summons (ECF No. 22) is VACATED.

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4 DATED: February 14, 2017

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C.W. Hoffman, Jr.
United States Magistrate Judge